

### **REMARKS**

Responsive to the final Office Action mailed December 29, 2003 and with and extension of time to reply of THREE MONTHS, the present paper is timely filed on or before June 29, 2004. Applicants respectfully submit that the present amendments fully address and overcome all rejections or objections made in the Office Action and, in any event, place the claims in better condition for appeal. Accordingly, entry of the amendments and reconsideration of the Application are respectfully requested.

#### **The Claim Amendments**

Claims 31 and 35 are amended to include the limitation that the graft polymerization is initiated by an organic free radical initiator that is on the surface of the substrate, not in the bulk of the reverse-phase medium that contains the monomer(s) to be grafted. Applicants respectfully submit that support for the amendments can be found in the specification at, for example, page 10, lines 1-3, page 10, lines 5-6, and page 14, lines 19-22. Applicants respectfully submit that the amendments do not introduce new matter into the Application.

#### **Claim Rejections Under 35 U.S.C. § 112, Paragraph Second**

Claims 31 - 35 stand rejected under 35 U.S.C. § 112, 2<sup>nd</sup>, because, it is alleged, the phrase "in an amount sufficient to induce a salting-out effect" renders the claims indefinite. Applicants respectfully submit that salting out is a generally recognized and understood phenomenon and that the skilled artisan would be able, through routine experimentation, to determine the amount of salt required to produce the effect for a given combination of monomer and reversed-phase medium. Accordingly, the skilled artisan would be reasonably able to determine when they were in possession of a medical device - or had made such device by a method - that meets all of the limitations of Applicants' claims. Applicants respectfully submit that their claims need do no more.

Without acquiescing to the grounds of the rejection, Applicants have amended their claims to remove the allegedly indefinite language, thereby eliminating the grounds for the rejection. Accordingly, Applicants respectfully submit that the rejection should be withdrawn.

Claim Rejections Under 35 U.S.C. § 102

Claims 31 -35 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Feydelor et al., United States Patent 4,377,010. For reasons of record and for the additional reasons set out below, Applicants respectfully traverse.

For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention. *See* M.P.E.P. § 706.02. Feydelor et al. teaches a variety of options for initiation of graft polymerization onto the surface of a surgical device, including the use of free radical initiators. Feydelor at col. 3, lines 11 - 17. However, Feydelor et al. does *not* teach that, when free radical initiators (e.g.; peroxides) are used, these free radical initiators are in any way localized on the surface of the substrate as required by Applicants' claims.

Because Feydelor does not teach every aspect of the present invention as claimed, Feydelor does not anticipate these claims. Accordingly, Applicants respectfully submit that the rejection should be withdrawn.

Claims 31 - 35 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Michal et al., United States Patent 6,287,285. Because Michal et al. does not teach every aspect of the claimed invention, Applicants respectfully traverse.

Michal et al. teaches an intracorporeal device having a coating that includes a "base coat". The base coat has a "grafting component" and is said to strongly adhere to the surface of the device. Michal et al., col. 2, lines 13 - 15. Applicants respectfully submit that only the base coat and, more specifically the grafting component, is in any way relevant to the present issue of anticipation. Michal et al. also teaches an embodiment having no base coat *per se*, but having a coating of a hydrophilic polymer, which coating includes a grafting component that, in any event, is polymerized as the grafting component in the two-coat embodiment. Michal et al., col 5, lines 9 -17. Polymerization of the grafting component is effected with radiation (UV, electron beam). Michal et al. col. 10, lines 56 - 59. Michal et al. does *not* teach initiation of polymerization of the grafting component with a free radical initiator that is coated or otherwise deposited on the surface of the substrate as required by Applicants' claims.

Because Michal et al. does not teach every aspect of Applicants' claimed invention, Applicants respectfully submit that the rejection should be withdrawn.

Conclusion

Applicants respectfully submit that, based on the foregoing amendments and remarks, the claims are now in condition for allowance and, in any event, in better condition for appeal. Entry of the amendments and timely allowance of the claims are earnestly solicited. If, in the opinion of the Examiner, a telephone conference would advance prosecution of the Application, the Examiner is invited to telephone the undersigned attorney.

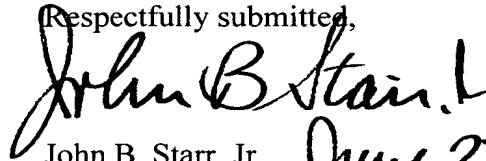
**PETITION FOR EXTENSION OF TIME**

Applicants hereby petition for an extension of time of three months under 37 C.F.R. § 1.136. The fee of \$ 950.00 due under 37 C.F.R. § 1.17(a) therefor is paid herewith.

**AUTHORIZATION TO DEBIT**

The Commissioner is hereby authorized to debit deposit account 11-0600 in the amount of \$ 950 for the fee due herewith under 37 C.F.R. § 1.17(a). Applicants respectfully submit that no additional fee is due herewith. If any additional fee is due, the Commissioner is hereby authorized to debit deposit account 11-0600 for such fee. A duplicate copy of this page is transmitted herewith.

Respectfully submitted,



John B. Starr, Jr.  
Reg. No. 44,474  
(212) 908-6257

*June 28, 2004*

Kenyon & Kenyon  
One Broadway  
New York, NY 10004  
Fax: (212) 425-5288